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09/851,745	05/09/2001	William Rex Akers	015351-0001 (B69465)	3915

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CHRISTOPHER J. ROURK
AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
P O BOX 688
DALLAS, TX 75313-0688

EXAMINER
MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
3626	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/851,745	Applicant(s) AKERS ET AL.
	Examiner Robert W. Morgan	Art Unit 2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-22 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites a "system for distributing medical supplies" in its preamble, but only recites two elements in its body, namely "a record server" and "a record client". It is unclear as to which element performs the "distributing" functions recited in the preamble. Simple stated, does the claimed record server or the claimed record client perform the act of "distributing medical supplies", or is there another element responsible for such functions? As such, the claim, as presently recited, appears to be incomplete.

Claims 17-19 incorporate the deficiencies of claim 16, through dependency, are also rejected.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans in view of U.S. Patent No. 5,899,998 to McGauley et al.

As per claim 1, Evans teaches a system for transferring electronic medical files comprising:

--the claimed record server having a medical record data file, the medical record data file having medical record data is met by the electronic medical record system that includes remote web servers (406, 408, 410, Fig. 24) with medical record information (see: column 12, lines 56-63);

--the claimed record client coupled to the record server, the record client receiving the medical record data file is met by the electronic medical record system that includes a server (406 Fig. 24) connected to client machines running application such as Microsoft Windows to access the data (see: column 14, lines 8-16); and

Evans fails to teach the claimed medical record data is encapsulated to prevent modification of the medical record data.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

As per claim 2, Evans teaches the claimed record server further comprises a sync system verifying that the record client has received a sync file before transferring the medical record data file. This feature is met by the electronic medical record system including web servers (406, Fig. 24) that allow patient data to be transfer between external source as well as updating the patient record obviously suggesting that the comparing and checking of medical data take place to verify that an up-to-date medical record is available (see: column 3, lines 37-43 and column 5, lines 36-40).

As per claim 3, Evans teaches the claimed record server further comprises a tracking system updating a tracking record when the medical record data file is transferred. This feature is met by the tracking and description of patient data within the system (see: column 9, lines 27-37).

As per claim 4, Evans teaches the claimed record client further comprises a tracking system updating a tracking record when the medical record data file is accessed. This limitation is met by the electronic medical record system which updates patient's records upon a nurses or physician entry of information into the system (see: column 5, lines 29-40).

As per claim 5, Evans teaches the claimed record client further comprises a remote data system, the remote data system generating medical record data. This limitation is met by the electronic medical record system that includes server (406 Fig. 24) that are connected to client machines running application such as Microsoft Windows to access and generating medical data (see: column 14, lines 8-16).

Evans fails to teach the claimed record client encapsulates the medical record data to prevent it from being modified.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

As per claim 6, limitations with respect to the claimed record client system further comprises a detail encapsulation system receiving comment data and encapsulating the comment data to prevent it from being modified are met by McGauley et al. is disclosure of the computerized medical records system that uses encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48). The motivation for combining the teachings of Evans and McGauley et al. is as given above for claim 1, and incorporated herein.

As per claim 7, the feature of the claimed record server further comprises a record storage system, the record storage system storing each version of the medical record data file received by the record server is met by the teaching of Evans of organizing and storing of patient medical records in which are made available for access by authorized personnel (see: column 2, lines 65 to column 3, lines 3).

As per claim 8, Evans teaches the claimed record server further comprises an excerpt transfer system, the excerpt transfer system receiving medical record excerpt data and transferring it to a predetermined recipient. This feature is met by the transferred patient data from the electronic medical records system to other healthcare providers (see: column 4, lines 64 to column 5, lines 8).

As per claim 9, Evans teaches the claimed notification system transferring notification data to a party regarding the availability of medical record data. This data is met by the acknowledgment by the healthcare provider that a patient's record has been reviewed and adding to the medical record any necessary instructions or recommendations for treatment (see: column 2, lines 45-58).

As per claim 10, Evans teaches the claimed a method for transferring electronic medical files comprising:

--the claimed assembling the medical record data into a medical record data file is met by the storing and organizing of patient records in a patient repository (see: column 3, lines 9-16);

--the claimed receiving a request to transfer the medical record data file is met by the point of care system issuing a request to transfer patient data (see: column 9, lines 39-53); and

--the claimed transferring the medical record data file to a remote location is met by the transferring of patient data between external sources (see: column 3, lines 36-42).

Evans fails to teach the claimed encapsulating medical record data to prevent it from being modified.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

As per claim 11, Evans teaches the claimed transferring the medical record data file to the remote location further comprises transferring a sync file to the remote location. This limitation is met by the transferring of patient data between external sources (see: column 3, lines 36-42).

As per claim 12, Evans teaches the claimed assembling the medical record data into the medical record data file further comprises storing a tracking record with the medical record data file. This feature is met by the electronic medical record system which stores and updates patient records upon a nurses or physician entry of information (see: column 3, lines 9-16 and column 5, lines 29-40).

As per claim 13, Evans teaches the claimed generating notification data at the remote location. This limitation is met by the acknowledgment by the healthcare provider that a patient's record has been reviewed and adding to the medical record any necessary instructions or recommendations for treatment (see: column 2, lines 45-58).

As per claim 14, Evans teaches the claimed accessing the medical record data file at the remote location (see: column 2, lines 45-47); and

--the claimed updating a tracking record to show that the medical record data file has been accessed at the remote location is met by the electronic medical record system which allows nurses and physician to access and update patient's records upon entry into the system (see: column 5, lines 29-40).

As per claim 15, Evans teaches the claimed receiving medical record data at the remote location (see: column 10, lines 18-23); and

--the claimed updating the medical record data file to include the medical record data is met by the electronic medical record system which allows nurses and physician to access and update patient's records upon entry into the system (see: column 5, lines 29-40).

Evans fails to teach the claimed encapsulating the medical record data to prevent the medical record data from being modified.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the electronic medical record system as taught by Evans with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

4. Claims 16-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans in view of U.S. Patent No. 6,305,377 to Portwood et al.

As per claim 16, Evans teaches the claimed record server and record client coupled to the record server (see: column 14, lines 8-16).

Evans fails to teach the claimed distributing of medical supplies and receiving package data from the record server with verification data and correlating the verification data to the package data.

Portwood et al. teach a prescription distribution system including a server computer communicating with other prescriber computer to transfer prescription data to the server for validation, certification, and distribution (see: abstract, column 3, lines 43-49 and column 7, lines 35-37). It is respectfully submitted that prescriptions are a form of "medical supplies".

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the prescription distribution system as taught by Portwood et al. with the electronic medical record system as taught by Evans with the motivation of streamlining and incorporating automatic mail ordering, billing, and other business aspects, such as prescription verification and delivery (see: Portwood et al. column 2, lines 9-13).

As per claim 17, Evans teaches the claimed tracking system that includes tracking and description of patient data within the system (see: column 9, lines 27-37).

Evans fails to teach the receiving of verification and incrementing order data.

Portwood et al. teaches the claimed transferring of prescription data to the server for validation, certification, and distribution as well a ordering system for prescription refills for the patient (see: column 2, lines 44-46 and column 7, lines 35-37).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the prescription distribution system as taught by Portwood et al. with the electronic medical record system as taught by Evans with the motivation of streamlining and incorporating automatic mail ordering, billing, and other business aspects, such as prescription verification and delivery (see: Portwood et al. column 2, lines 9-13).

As per claim 19, Evans teaches the claimed record client further comprises a remote data system, the remote data system generating counseling data and transmitting the counseling data to the record server. This limitation is met by access of the patient record from any geographical location as well as providing prescription instruction to a patients record (see: column 2, lines 45-58).

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,924,074 to Evans in view of U.S. Patent No. 6,305,377 to Portwood et al. in further view of U.S. Patent No. 5,899,998 to McGauley et al.

As per claim 18, Evans in combination with Portwood et al. teaches a system with a record server that verifies the data in a medical record data file. However, Evans in combination with Portwood et al. fails to teach the encapsulating of the verification data.

McGauley et al. teaches a method and system for maintaining and updating computerized medical records that use encryption to help protect and preserve the confidentiality of individual patient's medical information (see: column 6, lines 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include encryption of medical information as taught by McGauley et al. within the combination of the electronic medical record system as taught by Evans and the

prescription distribution system as taught by Portwood et al. with the motivation of providing an efficient and cost-effective solution to transaction-oriented networking applications in outpatient medical information systems, thereby securing the integrity and reliability of transmitted medical record data (see: McGauley et al. column 4, line 65 to column 5, lines 2).

6. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,305,377 to Portwood et al. in view of U.S. Patent No. 5,924,074 to Evans.

As per claim 20, Portwood et al. teaches a method for distributing medical supplies comprising:

--the claimed storing package data corresponding to a sealed package is met by the data storage unit use to store patient data including prescription data (see: column 2, lines 60-66);

--the claimed transmitting the sealed package to a remote site is met by the prescription distribution system that enable quicker delivery of prescription at the patient's location (see: abstract and column 5, lines 7-10); and

--the claimed authorizing release of the package if the stored package data matches the received package data is met by the prescription delivery message system that includes a message receiving unit connected to the CPU to receive the prescription delivery message upon delivery of the prescription and the matching of prescription data (see: column 3, lines 36-41).

Portwood et al. fails to teach the claimed receiving the package data from the remote site.

Evans teaches a system for instant access to a patient's electronic medical record from any geographical location and the transferring and receiving patient record external sources (see: column 2, lines 45-47 and column 10, lines 18-23).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the electronic medical record system as taught by Evans with the prescription distribution system as taught by Portwood et al. with the motivation of streamlining and incorporating automatic mail ordering, billing, and other business aspects, such as prescription verification and delivery (see: Portwood et al. column 2, lines 9-13).

As per claim 21, Portwood et al. teaches the claimed receiving the package data from the remote site further comprises: counseling a patient if the patient has not received the medical supplies before; and generating counseling data is met by the prescription message that includes instruction on how to take the medication or how to conduct various medical procedures (see: column 17, lines 17-22).

As per claim 22, Portwood et al. teaches the claimed incrementing order data after the package is released is met by the ordering of prescription refills which enable the system to keep track to increase or decrease a refill of a patient prescription (see: column 2, lines 44-47).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art (5,867,821) Ballantyne et al. discloses a method and apparatus for distribution and administration of medical services.

In related art (6,263,330) Bessette teaches a network system for storage of medical records.

In related art (6,219,587) Ahlin et al. provides a system for automatically dispensing medication or other medical elements.

In related art (6,131,090) Basso Jr., et al. discloses a method and system for providing controlled access to information stored on a smartcard.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is 703-605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

RWM
rwm
January 28, 2002

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100